

REMARKS

Applicants request favorable reconsideration and withdrawal of the objection and rejections set forth in the above-mentioned Office Action in view of the foregoing amendments and the following remarks.

Claims 1-21 remain pending, with claims 1, 11 and 20 being independent claims. Claims 1, 2, 11, and 20 has been amended herein. Support for the amendments can be found throughout the originally-filed disclosure, including, for example, at paragraphs 0024, 0026, 0027, and 0032-0036 of the specification. Thus, Applicants submit that the amendments do not include new matter.

Initially, the Office Action objects to claim 2 for not ending in a period. In response, Applicants have herein amended claim 2 to include a period. Accordingly, Applicants submit that the objection to this claim has been overcome.

Claims 1-5, 7, 10-16, 18, and 20 are rejected in the Office Action under 35 U.S.C. § 102(e) as being anticipated by Adams et al. (U.S. Patent No. 7,389,256). Claims 6 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Rose et al. (U.S. Patent No. 5,757,917). Claims 8, 19, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Williams et al. (U.S. Patent No. 5,815,657). Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams et al. in view of Campbell et al. (U.S. Patent Application Pub. No. 2002/0023033).

Applicants respectfully traverse the rejections, and submit that the claimed invention is patentably distinguishable from the cited references for at least the following reasons.

Independent claim 1 of the present application recites a method for identifying payments systems for facilitating the processing of payments comprising, inter alia, transmitting payment criteria for purchase of an item by a customer in a transaction from a customer computer to a supplier computer. Claim 1 further recites that the supplier computer performs querying and interacting steps to determine a payment system, if any,

that matches the payment criteria. Independent claim 11 recites a method for a gateway service to identify payment systems that includes providing to the gateway service, from an on-line supplier computer via a computer network, a customer's payment criteria for purchase of an item in a transaction, as well as querying the payment systems in an attempt to locate one or more payment systems to process the transaction based at least in part upon the payment criteria. Independent claim 20 recites a method of having a payment system selected for facilitating the processing of payments that includes providing to an on-line supplier computer, from a customer computer, payment criteria for purchase of an item, and having the on-line supplier computer query a directory of payment systems to locate one or more payment system to process the transaction.

Applicants submit that Adams et al. does not disclose or suggest a method involving a customer and supplier computer interacting in the purchase of an item in a transaction, nor a supplier computer interacting with payment systems in an attempt to locate one or more payment systems to process the transaction, and therefore does not anticipate or suggest the combination of features of the invention recited in independent claims 1, 10, and 19.

In formulating the rejections, the Office Action equates element 2 of Adams et al. to a "customer" and element 12 to a "supplier." Adams et al., however, describes element 2 as "operators" and element 12 as a "processing server." See, e.g., col. 7, lines 6-21. Such terminology is used in the reference because Adams et al. is not related to a customer-supplier interaction involving a purchase of an item in a transaction, but rather a financial processing system which is used, for example, in the processing of loan and bill payments. See, e.g., col. 6, lines 29-39. As such, elements 12 do not represent "customers," but rather operators using the system for processing of the payments. See, e.g., col. 7, lines 6-47. Further, processing server 12 is not a "supplier" of an item, but rather merely a computer that allows a user at a terminal 4 to interact with account processors. Col. 4, line 64 through col. 5, line 5.

While claim terminology must be given its broadest reasonable interpretation during examination, the interpretation must still be consistent with the specification of the application being examined, as well as consistent with the interpretation that those skilled in the art would take of the claim terminology. See MPEP § 2111. In this case, Applicants submit that it is unreasonable, inconsistent with the specification of the application, and inconsistent with the view of one of ordinary skill in the art would take, to interpret the features of the claimed invention involving a customer and a supplier as anticipated by the operators and processing system of Adams et al. The specification of the present application clearly describes a customer-supplier relationship in a transaction for an item, which is consistent with the general interpretation that would be taken by one of ordinary skill in the art. See, e.g., specification, paragraph 0011. On the other hand, Adams et al. does not describe any customer-supplier interaction. Instead, both the operators and processing system of Adams et al. would be, if anything, equated to part of a bank processing a payment. See, e.g., Adams et al., col. 3, lines 19-29 (noting that the disclosed system process financial transactions, with, among other things, accounts and transaction data). Yet, the specification of the present application distinguishes, for example, a “supplier” from a “bank.” See specification, paragraph 0002. In this regard, the specification of present application makes clear that banks, such as in Adams et al., would be, if anything, equated to the “payment systems” feature of the claimed invention, not the supplier. Specification, paragraph 0022.

For at least the foregoing reasons, Applicants submit that Adams et al. cannot be understood to disclose or suggest all of the features of the methods recited in independent claims 1, 11, and 20 of the present application.

Applicants submit the secondary citations to Rose et al., Williams et al., and Campbell et al. fail to cure the above-noted deficiencies of Adams et al. The Office Action cites these references as disclosing certain features of the dependent claims. Regardless of whether these references suggest the features as set forth in the Office Action, Applicants

submits that the secondary citations neither alone, or in combination with Adams et al. suggest the invention recited in independent claims 1, 11, and 20.

The remaining claims in the present application are dependent claims that depend directly or indirectly from claims 1, 11, or 20, and are allowable by virtue of their dependency and in their own right for further defining Applicants' invention. Favorable and independent consideration thereof is respectfully sought.

Claims 1-21 are provisionally rejected in the Office Action on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 10/611,034.

Applicants respectfully submit that the claims of Application No. 10/611,034 fail to recite, or other wise suggest, including information indicative of whether located payment systems match payment criteria, as recited in independent claims 1, 11, and 20. Moreover, should the claims still be deemed obvious in view of the claims of Application No. 10/611,034, Applicants respectfully request that the double-patenting rejection be held in abeyance until such time that the claims of Application No. 10/611,034 or the present application are otherwise found allowable.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and passage to issue of the present application.

Any fee required in connection with this paper should be charged to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should be directed to our address listed below

Respectfully submitted,

/Donald H. Heckenberg, Jr./

Donald H. Heckenberg, Jr.
Attorney for Applicants
Registration No. 60,081

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200
DHH:ntb

FCBS_WS 2568785v1